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## LOK SABHA

The following Bill was introduced in the Lok Sabha on 2nd March, 1955:—

BILL No. 6 OF 1955

*A Bill to provide, in the interests of the general public, for the control of the production, supply and distribution of, and trade and commerce in, certain commodities.*

BE it enacted by Parliament in the Sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Essential Commodities Act, 1955. Short title  
and extent.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. In this Act, unless the context otherwise requires,— Definitions.

(a) 'essential commodity' means any of the following classes of commodities:—

(i) cattle fodder, including oilcakes and other concentrates;

(ii) coal, including coke and other derivatives;

(iii) component parts and accessories of automobiles;

(iv) cotton and woollen textiles;

(v) foodstuffs, including edible oilseeds and oils;

(vi) iron and steel, including manufactured products of iron and steel;

(vii) paper, including newsprint, paperboard and straw board;

(viii) petroleum and petroleum products;

(ix) raw cotton, whether ginned or unginned, and cotton seed;

(x) raw jute;

(xi) any other class of commodity which the Central Government may, by notified order, declare to be an essential commodity for the purposes of this Act, being a commodity with respect to which Parliament has power to make laws by virtue of entry 33 in List III in the Seventh Schedule to the Constitution;

(b) 'food-crops' include crops of sugarcane;

(c) 'notified order' means an order notified in the Official Gazette;

(d) 'State Government' in relation to a Part C State means the Lieutenant Governor or the Chief Commissioner, as the case may be.

Powers to control production, supply, distribution, etc., of essential commodities. 3. (1) If the Central Government is of opinion that it is necessary or expedient so to do for maintaining or increasing supplies of any essential commodity or for securing their equitable distribution and availability at fair prices, it may, by order, provide for regulating or prohibiting the production, supply and distribution thereof and trade and commerce therein.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide—

(a) for regulating by licences, permits or otherwise the production or manufacture of any essential commodity;

(b) for bringing under cultivation any waste or arable land, whether appurtenant to a building or not, for the growing thereon of food-crops generally or of specified food-crops, and for otherwise maintaining or increasing the cultivation of food-crops generally, or of specified food-crops;

(c) for controlling the price at which any essential commodity may be bought or sold;

(d) for regulating by licences, permits or otherwise the storage, transport, distribution, disposal, acquisition, use or consumption of, any essential commodity;

(e) for prohibiting the withholding from sale of any essential commodity ordinarily kept for sale;

(f) for requiring any person holding in stock any essential commodity to sell the whole or a specified part of the stock to such person or class of persons and in such circumstances as may be specified in the order;

(g) for regulating or prohibiting any class of commercial or financial transactions relating to foodstuffs or cotton textiles which, in the opinion of the authority making the order are, or, if unregulated, are likely to be, detrimental to the public interest;

(h) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters;

(i) for requiring persons engaged in the production, supply or distribution of, or trade and commerce in, any essential commodity to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto, as may be specified in the order;

(j) for any incidental and supplementary matters, including in particular the entering and search of premises, vehicles, vessels and aircraft, the seizure by a person authorised to make such search of any articles in respect of which such person has reason to believe that a contravention of the order has been, is being or is about to be committed, the grant or issue of licences, permits or other documents, and the charging of fees therefor.

(3) Where any person sells any essential commodity in compliance with an order made with reference to clause (f) of subsection (2), there shall be paid to him the price therefor as hereinafter provided:—

(a) where the price can, consistently with the controlled price, if any, fixed under this section, be agreed upon, the agreed price;

(b) where no such agreement can be reached, the price calculated with reference to the controlled price, if any;

(c) where neither clause (a) nor clause (b) applies, the price calculated at the market rate prevailing in the locality at the date of sale;

(4) If the Central Government is of opinion that it is necessary so to do for maintaining or increasing the production and supply of an essential commodity, it may, by order, authorise any person (hereinafter referred to as an authorised controller) to exercise, with respect to the whole or any part of any such undertaking engaged in the production and supply of the commodity as may be specified

in the order such functions of control as may be provided therein and so long as such order is in force with respect to any undertaking or part thereof,—

(a) the authorised controller shall exercise his functions in accordance with any instructions given to him by the Central Government, so however, that he shall not have any power to give any direction inconsistent with the provisions of any enactment or any instrument determining the functions of the persons in charge of the management of the undertaking, except in so far as may be specifically provided by the order; and

(b) the undertaking or part shall be carried on in accordance with any directions given by the authorised controller under the provisions of the order, and any person having any functions of management in relation to the undertaking or part shall comply with any such directions.

(5) An order made under this section shall,—

(a) in the case of an order of a general nature or affecting a class of persons, be notified in the Official Gazette; and

(b) in the case of an order directed to a specified individual be served on such individual—

(i) by delivering or tendering it to that individual, or

(ii) if it cannot be so delivered or tendered, by affixing it on the outer door or some other conspicuous part of the premises in which that individual lives, and a written report thereof shall be prepared and witnessed by two persons living in the neighbourhood.

Imposition  
of duties on  
State Gov-  
ernments,  
etc.

4. An order made under section 3 may confer powers and impose duties upon the Central Government or the State Government or officers and authorities of the Central Government or State Government, and may contain directions to any State Government or to officers and authorities thereof as to the exercise of any such powers or the discharge of any such duties.

Delegation  
of powers.

5. The Central Government may, by notified order, direct that the power to make orders under section 3 shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by—

(a) such officer or authority subordinate to the Central Government, or

(b) such State Government or such officer or authority subordinate to a State Government,

as may be specified in the direction.

6. Any order made under section 3 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act. Effect of orders inconsistent with other enactments.

7. (1) If any person contravenes any order made under section 3— Penalties.

(a) he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine:

Provided that if the court is of opinion that a sentence of fine only will meet the ends of justice, it may, for reasons to be recorded, refrain from imposing a sentence of imprisonment; and

(b) any property in respect of which the order has been contravened or such part thereof as to the court may seem fit shall be forfeited to the Government:

Provided that if the court is of opinion that it is not necessary to direct forfeiture in respect of the whole or, as the case may be, any part of the property, it may, for reasons to be recorded, refrain from doing so.

(2) If any person to whom a direction is given under sub-section (4) of section 3 fails to comply with the direction he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

8. If any person,—

(i) when required by any order made under section 3 to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false, or does not believe to be true, or False statements.

(ii) makes any such statement as aforesaid in any book, account, record, declaration, return or other document which he is required by any such order to maintain or furnish, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

9. (1) If the person contravening an order made under section 3 is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the

contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) 'company' means any body corporate, and includes a firm or other association of individuals; and

(b) 'director' in relation to a firm means a partner in the firm.

Cognizance  
of offences.

10. No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in section 21 of the Indian Penal Code.

XLV  
1860. of

Special pro-  
vision regar-  
ding fine.

11. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any magistrate of the first class specially empowered by the State Government in this behalf and for any presidency magistrate to pass a sentence of fine exceeding one thousand rupees on any person convicted of contravening any order made under section 3.

V of 1898.

Presumption  
as to orders.

12. Where an order purports to have been made and signed by an authority in exercise of any power conferred by or under this Act, a court shall presume that such order was so made by that authority within the meaning of the Indian Evidence Act, 1872.

I of 1872.

Burden of  
proof in cer-  
tain cases.

13. Where a person is prosecuted for contravening any order made under section 3 which prohibits him from doing any act or being in possession of a thing without lawful authority or without a permit, licence or other document, the burden of proving that he has such authority, permit, licence or other document shall be on him.

Protection  
of action  
taken under  
Act.

14. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order made under section 3.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made under section 3.

15. (1) The following laws are hereby repealed:—

Repeals and  
savings.  
1 of 1955.

(a) the Essential Commodities Ordinance, 1955;

(b) any other law in force in any State immediately before the commencement of this Act in so far as such law controls or authorises the control of the production, supply and distribution of, and trade and commerce in, any essential commodity.

(2) Notwithstanding such repeal, any order made or deemed to be made by any authority whatsoever, under any law repealed hereby and in force immediately before the commencement of this Act, shall, in so far as such order may be made under this Act, be deemed to be made under this Act and continue in force, and accordingly any appointment made, licence or permit granted or direction issued under any such order and in force immediately before such commencement shall continue in force until and unless it is superseded by any appointment made, licence or permit granted or direction issued under this Act.

(3) The provisions of sub-section (2) shall be without prejudice to the provisions contained in section 6 of the General Clauses Act, 1897, which shall also apply to the repeal of the Ordinance or other law referred to in sub-section (1) as if such Ordinance or other law had been an enactment. X of 1897.

#### STATEMENT OF OBJECTS AND REASONS

Under article 369 of the Constitution, Parliament had power during a period of five years from the commencement thereof to make laws with respect to trade and commerce in, and the production, supply and distribution of, certain essential commodities. The life of the Essential Supplies (Temporary Powers) Act, 1946, was therefore limited to the 26th January, 1955. The essential commodities to which that Act applied fell into two broad categories, *viz.*—

(a) coal, textiles, iron and steel, paper, etc., which are products of industries under Union control; and

(b) food-stuffs, cattle fodder, etc., which are not products of such industries.

As public interest required that the Centre should continue to have even after the 26th January, 1955, the same legislative powers as

it had under article 369 of the Constitution, a Bill providing for the necessary amendment of entry 33 of List III in the Seventh Schedule to the Constitution was passed by both Houses of Parliament in September last year. This amendment has now become law, having been ratified by the requisite number of States.

The Constitution (Third Amendment) Act, however, had not become law when the Essential Supplies (Temporary Powers) Act, 1946, expired, and therefore an Ordinance was promulgated to take effect on the 26th day of January, 1955, which provided for the regulation of trade and commerce in and the production, supply and distribution of commodities which fell within the first category referred to in the preceding paragraph. Under entry 42 of the Union List, Parliament has power to regulate inter-State trade and commerce in all commodities and the Ordinance also provided for such regulation in section 4 thereof, but the application of that section was limited in the first instance to wheat, raw cotton and sugar-cane.

Pending the passing of a Central law providing for control in respect of all essential commodities now falling within entry 33 of the Concurrent List, certain State Governments have promulgated Ordinances or taken other legal action open to them for continuing controls in respect of such commodities as could not be included in the Central Ordinance.

The present Bill seeks to replace the Central Ordinance and at the same time includes within the definition of "essential commodities" those commodities which had to be left out by reason of lack of legislative power. To a very large extent, the Bill follows the provisions contained in the Essential Supplies (Temporary Powers) Act, 1946, but the penalty clause has been simplified and a few other provisions have been omitted as unnecessary.

D. P. KARMARKAR.

NEW DELHI;

*The 25th February, 1955.*

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill, which is closely modelled on section 3 of the Essential Supplies (Temporary Powers) Act, 1946, delegates to the Central Government power to make statutory orders wherever necessary for the purpose of maintaining or increasing the supply of any essential commodity or for securing their equitable distribution



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and availability at fair prices. The matters in respect of which orders may be made are specified in sub-clause (2) of that clause.

2. The subject-matter of this Bill would necessarily require that extensive powers should be vested in the authority empowered to make orders. The making of the orders will depend upon the exigencies of the situation obtaining in any particular State or area, and orders may vary from place to place and from commodity to commodity. It is also necessary that the Central Government should be empowered to delegate the powers given by it to State Governments or to officers of Government. Otherwise the powers will not be effective in an emergency.

3. Having regard to the object of the Bill, the delegation cannot be said to be of an exceptional character.

M. N. KAUL,  
*Secretary.*

